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Sun Microsystems, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.,

Plaintiff – Counterclaim
Defendant,

v.

SUN MICROSYSTEMS, INC.,

Defendant -
Counterclaimant.

CASE NO. 3:07-CV-06053 EDL (JCS)

**SUN MICROSYSTEMS, INC.'S
ADMINISTRATIVE MOTION PURSUANT
TO CIVIL L.R. 79-5 REGARDING SUN'S
REPLY IN SUPPORT OF ITS MOTION
FOR PARTIAL STAY**

**Date: May 13, 2008
Time: 2:00 p.m.
Courtroom: E, 15th Floor
Hon. Elizabeth D. Laporte**

Pursuant to Northern District of California Local Rule 79-5, Sun Microsystems, Inc. ("Sun") submits the following administrative motion regarding Sun's Reply In Support of Its Motion for Partial Stay ("Sun's Reply") and Sun's Objections to the Declarations of David Hitz and Stephen G. Kunin ("Sun's Objections") filed herewith.

Local Rule 79-5(d) states, in relevant part, that "if a party wishes to refer in a memorandum or other filing to information [designated confidential] by another party, the submitting party must file and serve an Administrative Motion for a sealing order...." Because

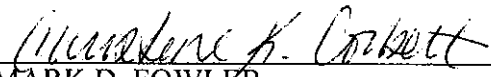
Sun's Reply and Sun's Objections refer to information submitted on behalf of Network Appliance, Inc. ("NetApp") that has been deemed confidential by NetApp, Sun must file this administrative motion. *However, Sun does not believe that any of the information set forth in Sun's Reply or Sun's Objections should be filed under seal.*

On April 29, 2008, NetApp filed its Administrative Motion to File Under Seal the Unredacted Versions of Plaintiff NetApp, Inc.'s Opposition to Sun Microsystems, Inc.'s Motion for Partial Stay and Declaration of David Hitz in Support Thereof ("NetApp's Administrative Motion"). That same day, Sun opposed NetApp's Administrative Motion. For the reasons set forth in Sun's Opposition to NetApp's Administrative Motion, none of the information NetApp seeks to file under seal is privileged or constitutes a protectable trade secret. L.R. 79-5. In fact, none of the information can even be deemed "confidential." Therefore, NetApp's Opposition and accompanying papers should not be filed under seal. However, because this issue is still under submission by the Court, Sun is required by Local Rule 79-5(d) to file this administrative request.

In short, Sun requests that the Court deny NetApp's Administrative Motion – none of the information in NetApp's Opposition (and Hitz Declaration) and, consequently, in Sun's Reply or Sun's Objections should be filed under seal. If the Court denies NetApp's Administrative Motion, Sun will file an unredacted copy of Sun's Reply and Sun's Objections in the public record.

Dated: May 5, 2008

DLA PIPER US LLP

By 
 MARK D. FOWLER
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 Attorney for Defendant and Counterclaimant
 SUN MICROSYSTEMS, INC.